36

FILED

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HAROLD B. WILLEY, Clerk

In the Supreme Court of the United States

October Term, 1953. No. 525

PHILIP OXMAN

v.

COMMONWEALTH OF PENNSYLVANIA

On Petition for a Writ of Certiorari to the Superior Court of Pennsylvania.

BRIEF FOR THE COMMONWEALTH OF PENNSYLVANIA IN OPPOSITION

INDEX

	Page
Opinion Below	1
Jurisdiction	1
Argument	2

TABLE OF CITATIONS

Cases:

Barrington v. Missouri, 205 U. S. 483 (1907)	2
Bell Telephone Company of Pennsylvania v. Pennsylvania Utility Commission, 309 U. S. 30 (1940)	2

Statutes:

28 U. S. C. 1257(3)	1

OPINION BELOW

The opinion of the Superior Court of Pennsylvania is reported in 173 Pa. Super. 482 (1953).

JURISDICTION

The judgment of the Superior Court of Pennsylvania was entered on July 14, 1953. The Supreme Court of Pennsylvania denied allocatur on September 8, 1953. Petition for a writ of certiorari was filed on January 9, 1954. The jurisdiction of this Court is invoked under 28 U. S. C. 1257(3). See also Rules 38 and 38½ of the Rules of this Court.

ARGUMENT

The issues upon which petitioner bases his petition for a writ of certiorari appear on page 7 of his petition and brief. All of these questions actually involve the single issue of the sufficiency of the evidence in the state criminal proceedings to support the conviction of petitioner for being concerned in the management, conducting and carrying on of an illegal lottery. This Court has repeatedly held that it has no jurisdiction to review the decision of a state appellate court interpreting the state's rules of evidence and passing upon the sufficiency of the evidence in a state judicial proceeding. *Bell Telephone Company of Pennsylvania v. Pennsylvania Utility Commission*, 309 U. S. 30 (1940); *Barrington v. Missouri*, 205 U. S. 483 (1907) Since the questions raised by petitioner deal solely with the sufficiency of the evidence in a state criminal proceeding, the petition for a writ of certiorari does not present a Federal question for review by this Court, and should be denied.

Respectfully submitted,

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